

# Senate Study Bill 3185 - Introduced

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON ZAUN)

## A BILL FOR

1 An Act providing immunity for the operation of manufacturing  
2 or industrial facilities under certain circumstances and  
3 including applicability provisions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 331.304, Code 2020, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 13. A county shall not adopt or enforce any  
4 ordinance or regulation in violation of chapter 686D.

5 Sec. 2. Section 364.3, Code 2020, is amended by adding the  
6 following new subsection:

7 NEW SUBSECTION. 13. A city shall not adopt or enforce any  
8 ordinance or regulation in violation of chapter 686D.

9 Sec. 3. NEW SECTION. **686D.1 Definitions.**

10 As used in this chapter, unless the context otherwise  
11 requires:

12 1. "*Commenced operations*" is the date on which the  
13 construction of a manufacturing or industrial facility was  
14 originally completed.

15 2. "*Manufacturing or industrial facility*" includes land,  
16 buildings, structures, pipes, stacks, ponds, impoundments,  
17 appurtenances, and machinery or equipment which is used for  
18 manufacturing, processing, distribution, warehousing, or  
19 technology intensive operations.

20 Sec. 4. NEW SECTION. **686D.2 Limitation of liability.**

21 1. A person shall not be liable for the operation of  
22 a manufacturing or industrial facility under a cause of  
23 action for public or private nuisance, negligence, trespass,  
24 or any similar legal theory, if the facility is operating  
25 pursuant to the issuance of all required licenses, permits,  
26 certifications, or authorizations under applicable federal or  
27 state environmental law.

28 2. A person shall not be liable for the operation of a  
29 manufacturing or industrial facility under a cause of action  
30 for public or private nuisance or trespass if the facility  
31 commenced operations before the person alleged to have suffered  
32 an injury began to reside or operate near the facility.

33 3. a. If the manufacturing or industrial facility is  
34 subject to municipal, state, or federal environmental laws  
35 or regulations, the facility may expand its operations or



1     This bill provides immunity for the operation of  
2 manufacturing or industrial facilities under certain  
3 circumstances.

4     The bill provides that a person shall not be liable for the  
5 operation of a manufacturing or industrial facility under a  
6 cause of action for public or private nuisance, negligence,  
7 trespass, or any similar legal theory, if the facility is  
8 operating pursuant to the issuance of all required licenses,  
9 permits, certifications, or authorizations under applicable  
10 federal or state environmental law.

11    The bill provides that a person shall not be liable for the  
12 operation of a manufacturing or industrial facility under a  
13 cause of action for public or private nuisance or trespass if  
14 the facility commenced operations before the person alleged  
15 to have suffered an injury began to reside or operate near  
16 the facility. The bill defines "commenced operations" as  
17 the date on which the construction of a manufacturing or  
18 industrial facility was originally completed. An expansion  
19 of a manufacturing or industrial facility shall be considered  
20 to have commenced operations on the same date as the facility  
21 if the facility is subject to municipal, state, or federal  
22 environmental laws or regulations. The bill provides that  
23 a transfer of ownership of a manufacturing or industrial  
24 facility, a temporary cessation of operation, or reduction in  
25 the size of the operation of the facility does not affect the  
26 date on which the facility commenced operations for purposes of  
27 the liability protections of the bill.

28    The bill provides that in an action in which a defendant's  
29 liability is limited under the bill, the prevailing defendant  
30 is entitled to recover the reasonable expenses of litigation,  
31 including costs, expert fees, and attorney fees.

32    The bill provides that a city, county, taxing district, or  
33 any other political subdivision shall not adopt or enforce  
34 any ordinance or resolution that would impose civil liability  
35 for an action from which the bill limits liability or that

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1 would require abatement or the closure of a manufacturing or  
2 industrial facility.

3     The bill shall not be construed to modify any provision of  
4 eminent domain or environmental law that is not inconsistent  
5 with the bill.

6     The bill applies to actions which accrue on or after the  
7 effective date of the bill.